

The Texas Education Agency (TEA) adopts new §105.1031, concerning the allotment for non-enrolled students participating in University Interscholastic League (UIL) activities. The new section is adopted with changes to the proposed text as published in the March 22, 2024 issue of the *Texas Register* (49 TexReg 1840) and will be republished. The new rule implements House Bill (HB) 3708, 88th Texas Legislature, Regular Session, 2023, by establishing provisions related to an allotment for local educational agencies that allow non-enrolled students to participate in UIL activities.

**REASONED JUSTIFICATION:** HB 547, 87th Texas Legislature, Regular Session, 2021, enabled public school districts to extend the option of UIL participation to non-enrolled students who live within the district's borders. The bill defined a non-enrolled student as one who is home-schooled. The expansion of participation benefited both students and schools, as participating home-schooled students receive the educational enrichment of UIL activities and schools offer their services to more students in their community. However, school districts that provide these opportunities to home-schooled students receive no additional funding to accommodate the increased number of participants in their programs. HB 3708, 88th Texas Legislature, Regular Session, 2023, helps to support school districts in expanding their UIL programs to include home-schooled students by providing for an annual allotment of \$1,500 per UIL activity in which a non-enrolled student participates.

Adopted new §105.1031 implements HB 3708 by establishing definitions; specifying the data used to calculate the estimated and final entitlement; and providing requirements for the UIL activities, student participation, and documentation.

In response to public comment, "for each non-enrolled student" was added to §105.1031(b) at adoption to clarify that the rule provides schools \$1,500 per non-enrolled student per activity.

**SUMMARY OF COMMENTS AND AGENCY RESPONSES:** The public comment period began March 22, 2024, and ended April 22, 2024. Following is a summary of public comments received and agency responses.

**Comment:** The Texas Home School Coalition (THSC) recommended that §105.1031(b) be changed to read, "In accordance with Texas Education Code (TEC), §48.305, a school district or open-enrollment charter school that allows participation of non-enrolled students in UIL activities under TEC, §33.0832, is entitled, for each non-enrolled student, to an annual allotment of \$1,500 for each UIL activity in which the non-enrolled student participates." The organization commented that as proposed, the rule could be misinterpreted to say that the school receives only \$1,500 for the UIL activity regardless of the number of students participating in the activity. THSC stated that the suggested change would ensure that the rule is understood to provide schools \$1,500 per non-enrolled student per activity as opposed to \$1,500 per activity that has a non-enrolled student participating.

**Response:** The agency agrees and added "for each non-enrolled student" to §105.1031(b) at adoption to clarify that the rule provides schools \$1,500 per non-enrolled student per activity.

**Comment:** A parent expressed support for the rule and stated that it would likely convince the local district to allow the parent's child, who is home-schooled, to participate in the band program.

**Response:** The agency agrees with support for the rule.

**Comment:** An individual commented that the proposed rule limits students' participation to only the district in which they live and recommended allowing students to participate with any school district, especially if the district they reside in does not participate. The commenter stated that it is likely that many school districts will not participate, thereby limiting student participation.

**Response:** The agency disagrees that students should be able to participate with any school district. TEC, §33.0832(e), establishes that a non-enrolled student may only participate in a league activity for the school in the school district that the student would be eligible to attend based on the student's residential address.

**STATUTORY AUTHORITY.** The new section is adopted under Texas Education Code (TEC), §33.0832(a)(2), which defines a non-enrolled student as one who predominantly receives instruction that is provided by the parent, or a person standing in parental authority, in or through the child's home; TEC, §48.004, which requires the

commissioner of education to adopt rules as necessary to implement and administer the Foundation School Program; and TEC, §48.305, as added by House Bill 3708, 88th Texas Legislature, Regular Session, 2023, which permits each school district that allows participation for a non-enrolled student to receive an annual allotment of \$1,500 for each league activity in which the student participates.

CROSS REFERENCE TO STATUTE. The new section implements Texas Education Code, §§33.0832(a)(2); 48.004; and 48.305, as added by House Bill 3708, 88th Texas Legislature, Regular Session, 2023.

<rule>

**§105.1031. Allotment for Non-enrolled Students Participating in University Interscholastic League Activities.**

- (a) The following terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.
  - (1) Activity season--The period established by a school or the University Interscholastic League (UIL) in which practices, rehearsals, and interschool competitions or contests take place.
  - (2) Non-enrolled student--A student who predominantly receives instruction in a general elementary or secondary education program that is provided by the parent, or a person standing in parental authority, in or through the child's home. This may include a student who is designated as enrolled, not in membership.
  - (3) Participation--The active involvement of a student in a minimum of 75% of a combined total of practices, rehearsals, or preparation activities and associated competitions and contests, including selection as an alternate, for a specific UIL activity.
  - (4) University Interscholastic League or UIL activity--Any official UIL activity identified in the UIL Constitution and Contest Rules, not including pilot activities.
- (b) In accordance with Texas Education Code (TEC), §48.305, a school district or open-enrollment charter school that allows participation of non-enrolled students in UIL activities under TEC, §33.0832, is entitled, for each non-enrolled student, to an annual allotment of \$1,500 for each UIL activity in which the non-enrolled student participates.
- (c) In the fall of each school year, as part of the settle-up process for the preceding school year, data reported through the Texas Student Data System Public Education Information Management System (TSDS PEIMS) summer submission will be used to calculate the allotment prescribed in subsection (b) of this section.
- (d) UIL activities shall:
  - (1) be overseen by a school district- or charter school-approved coach or sponsor;
  - (2) provide for a minimum of four weeks of coach- or sponsor-led practice, rehearsal, or preparation specific to the activity within the designated activity season; and
  - (3) provide opportunities for students to take part in formal, interschool competitions or contests in the associated activity during the designated activity season.
- (e) A school district or charter school may still receive the allotment if a student began the activity season without injury or illness and later experienced an injury or prolonged illness that prevented participation.
- (f) For audit purposes, a school district or charter school shall maintain documentation to support the requirements of this section.
- (g) School districts and charter schools will be provided with estimated funding during a school year for non-enrolled students based on the prior year's summer TSDS PEIMS data using the same methodology described in subsection (c) of this section to calculate the entitlement. The final entitlement will be based on data from the current school year as provided for in subsection (c) of this section. Any difference from

the estimated entitlement will be addressed as part of the Foundation School Program settle-up process according to the provisions of TEC, §48.272.